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# INTERNATIONAL JOURNAL OF ETHICS.

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JANUARY, 1891.

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## THE RIGHTS OF MINORITIES.

IN times past government has generally meant the rule of minorities over majorities. As conservatives are fond of reminding us, even the most democratic governments of the ancient world were aristocracies of slave-owners. The free citizens of Athens were a democracy among themselves, but an aristocracy, if we think of all the human beings inhabiting Attica. And, even in cases where "inhabitants" and "free citizens" have been nearly convertible terms, cities and states governing themselves democratically have yet denied political rights to subject peoples. The free citizens of Uri allowed their bailiffs to rule despotically the inhabitants of the Ticino valley. Thus, the struggle for freedom has in the past generally been the struggle of the majority against a privileged minority. Where there has been no such struggle, this has been because the majority have acquiesced in their political subordination or have never yet awakened to a sense that anything else is possible except blind obedience to the one or the few. Such political torpor can continue more easily where all alike are the slaves of an absolute despot. Where the practices of free government (*i.e.*, government by discussion, instead of government merely by force) prevail even among a limited number, an example is set, which the many in course of time will desire to imitate. It is therefore more dangerous for a republican than for a monarchical government to practise

tyranny or claim exclusive privilege. The history of ancient Rome is the history of a gradual extension of citizenship to those previously excluded,—an extension won by party-struggles.

Democracy, in the full modern sense, means the rule of the majority. For practical purposes the majority must be taken as, for the time being, the representative of all. If all cannot have their wishes gratified, it is the less evil to adopt the view of the greater number. This is democracy in its lowest terms; in its ideal it means a great deal more than a machine for carrying into effect the wishes of the majority. It may be urged that it is very absurd to expect the whole to yield to the decision of half *plus* one: and a democracy may limit itself by requiring that important changes can only take place with the consent of two-thirds or three-fourths of the persons voting or even of the persons entitled to vote. But no practical person will go so far as to require unanimity in large bodies. To expect unanimity, as is done in a Russian village community, belongs to a very crude stage of political thinking and is apt to mean the tyranny of the most obstinate. In judicial matters it is somewhat different; there may be good arguments for requiring unanimity in a jury, but I am not concerned to defend the English system. Yet, even with regard to that, one has heard of the Irishman who accused the other eleven of being "obstinate;" *he* knew how to assert the rights of minorities. Obstinacy is a very good thing in its way, as I shall have occasion to point out afterwards; but on the whole one is likely to get a more rational expression of opinion by recognizing the principle of "counting heads instead of breaking them." Thus there inevitably remains a minority whose wishes are overridden. Of course this minority may be a different one on different questions; but the effect of party government is to make a great number of questions run together.

The claims of a minority to consideration may be merely a survival of claims to exclusive privilege. The dethroned rulers may not "give way with a good grace," and may expect in a changed constitution to retain their former position.

The extent of the change, which has taken place, may be disguised from them by the way in which it has come about, as in those countries that have been fortunate enough to grow gradually out of one form into another. Birth and wealth, with the advantages of education and position which they may carry with them, give a person *prestige* in a community however formally democratic it may be; but the person of birth or wealth may go on to demand an express recognition of his advantages. Now such a claim on the part of a minority a democracy cannot recognize without defeating its very principle; and it may be questioned how far any such recognition ultimately benefits the minority itself. An express and formal superiority awakens jealousy and dislike;\* an actual superiority of any obvious kind gets in a democratic country abundant opportunities of asserting itself,—in the case of wealth only too abundant opportunities.

It is a claim of a very different and more important kind which is made in Mill's "Liberty,"—a claim for the minority, put forward, however, not so much on behalf of the interests of the minority themselves as on behalf of the future and general well-being of mankind. All great movements of progress, it is pointed out, have begun with minorities; and thus, if the opinions and efforts of a minority are repressed and thwarted, progress may be hindered and future generations suffer. Others, again, go further and, echoing Carlyle's words, urge that, as the population consists mostly of fools, to allow the majority to rule is to allow the fools to rule. Knowledge, except of the loosest and most meagre kind, is the possession only of the few; and so, it is argued, we must turn to the experts, and disregard the clamor of the many.

On this subject of the authority of the few and the many respectively considerable confusion shows itself every now and then. It may be as well to try to clear it up a little. On the one hand, it is undoubtedly true that all scientific truth is known only by a few experts; others must accept it as their

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\* *E.g.*, the Prussian "three-class system," according to which all voters are distributed into three classes with equal votes, according to the amount of direct taxes they pay,—a system vigorously denounced by Lassalle.

authority. On the other hand, there has always been a tendency to believe that the mass of mankind cannot be entirely in the wrong; that there must be some truth in what is generally believed. And the actual growth of democracy and of the democratic spirit might seem to have enormously increased the force of the authority of general consent. To escape from this apparent contradiction we must carefully distinguish between the ground on which we accept scientific truth and the ground on which we adopt practical maxims. The vast mass of mankind have believed that the sun goes round the earth, have believed in witchcraft, in ghosts, etc. And this universality of belief is sometimes urged as an argument in favor of the truth of such opinions. It does prove that the scientific disbeliever is bound to show, not merely that such beliefs are erroneous, but also how they can have arisen and become prevalent. In the case of the relation of sun and earth, that is easy enough. The popular view, which still survives as often as the most scientifically-minded person talks of sunrise and sunset, is the first obvious interpretation of the impressions of sense. And similarly (though the matter is often much more complex) a knowledge of the mental history of the human race—a knowledge enormously increased of late by the careful study of savage tribes—will explain the wide acceptance of beliefs which the growth of science tends to discredit. But in all such cases the minority of trained minds has an authority that does not belong to the majority of untrained minds.

This legitimate authority of the expert is often used as an argument that government must be in the hands of a select class. It is sometimes even used as an argument for an hereditary aristocracy,—which of course it does not support at all. It might seem to support the rule of an intellectual aristocracy, if we could get together such a body,—Plato's "philosopher kings." On the strength of this argument the Fellows of the Royal Society might claim to teach us lessons in the art of government. But the argument rests on a confession between what is true for the intellect and what is practically expedient. If the majority of a people have a strong,

though it may seem to the educated observer a perfectly unreasonable, belief in monarchical institutions,—are ready to die for their king,—then, however superior we may think republican institutions, it would be folly to impose them from without upon an unwilling people. It is of no use to give any people the best constitution (or what we think such) unless we convince them that it is the best, so that it becomes the best *for them*. All government is based upon opinion. This is the dictum of the cautious conservative Hume as well as of the democratic prophet Rousseau. Matters of detail can indeed be best decided by experts, and cannot be properly decided at all except by them (they must, however, be experts in the art of administration, and not merely in some theoretical science). But the mass of a nation must be convinced of the value of the general principle which is being carried out; else what we might judge the most salutary changes will be ineffectual. Of course the existence of an institution is often itself an important factor in producing the opinion favorable to it; but it is the favorable opinion, and not the mere legal existence of the institution, that makes the institution of any value. If the mass of a people believe a law to be unjust, it matters not that a few highly-cultured gentlemen at the head of affairs are perfectly satisfied of its justice; to the people it is an unjust law and has none of the binding force of law on their sentiments and conscience. And laws which people generally (I do not mean a few stray persons here and there) think it right to violate are producing the very opposite moral effect from that which good laws ought to produce. That this or that law or institution is suitable for us or the reverse is not a proposition of the same kind with the proposition that such and such things do or do not happen in the course of nature or history. That the Romans lived under such and such a constitution is a proposition, with regard to whose truth or falsehood the opinion of the scientific historian outweighs any amount of popular belief or tradition. But that such and such a law or constitution is good for us is only true if we think it so, after a fair trial. To use a familiar illustration, it is the wearer of the shoe that knows whether the

shoe pinches. The scientific shoemaker alone may know why it pinches and how to remedy the mischief. But if the scientific shoemaker were to convince you that the shoe did not pinch, he would convince your intellect only, if the shoe continued to hurt your foot; and you would go in future to the unscientific shoemaker who could give you comfort even without science. So it is with constitutions and laws. Those who have to wear them must judge whether or not they fit; and therefore they must have the decisive voice as to the general principles, though, as already said, details had better be left to experts. Ends must be approved by the feeling of the many; the means must be chosen by the intellect of the few. This is, in fact, the *raison d'être* of representative democracy,—the many choose the few to carry out their wishes.

The distinctions, *first*, between scientific and practical matters; *secondly*, between judgments about ends and about means, may seem almost too obvious to need statement. But obvious distinctions are apt to be overlooked; and it is worth uttering truisms, if we can get rid of the fallacious argument that because the few may be wiser than the many therefore the few should rule the many, otherwise than as their ministers and stewards.

Those who are ready for all practical purposes to accept the will of the majority as decisive yet sometimes think it necessary to propose various expedients for securing what is called "the representation of minorities." The danger of the non-representation of minorities seems to me to be a good deal exaggerated by Mill and other advocates of "proportional representation" and similar schemes. It would indeed not be difficult to make out a *primâ facie* case for the absurdity of the whole system of representative government if we attended merely to the arithmetical possibilities of its mechanism. Thus, in Great Britain, the determining power lies with the majority of a cabinet, which is supported by a majority of the House of Commons, which is elected, it may be, by a bare majority of the electors; so that the representative system seems, when carried out, to defeat itself and to put power into the hands of a very small minority of the whole popula-

tion,—ultimately perhaps into the hands of “the odd man.” But this seeming absurdity results from an abstract and artificial way of looking at the matter. The will of these few persons is only effective because they do represent (or at least did, at some time, represent) something very much more than a small fraction of the population. No scheme that can be constructed by human ingenuity will make a representative chamber a quite perfect mirror of all the various sets of opinions in the community. It is only a question of more or less; and, what is very important, any arrangement that is adopted must have the merit not merely of being simple to work, but of looking simple. Even the suspicion of trickery must be avoided. This is, of course, the great advantage of the system of equal electoral districts with single members, and “one man one vote.” Even so, it may indeed happen that a majority of the elected chamber may represent a minority of the electors,—if one party have extremely large majorities in some places and be defeated by extremely narrow majorities in others. Accidents like that will happen in the best regulated constitutions; but the chances are certainly against their happening to any very great extent. But when such arithmetical possibilities are insisted on, it is forgotten, in the first place, that each individual member has many other attributes besides being the member for so-and-so, and, in the second place, that there are elements in the living constitution of a country besides those written down by constitutional lawyers. An elected assembly is powerful indeed. It may, like the British Parliament, be legally “omnipotent;” and yet there is a power behind it, a power that acts not merely at the time of a general election, but continuously,—the power of public opinion. The newspaper and the public meeting and the petition are real factors in a modern constitution. It is easy enough to see the defects of each of these organs of public opinion, easy enough to throw ridicule upon them. But that is to miss their true significance. The newspaper ought to represent the power of intellect applied to practical matters; it is too apt to represent largely the power of money; not merely the capital that is needed to float it, but the money



that comes in through advertisements. The political and moral consequence of advertising would, however, be too long a story to begin now; to have named it may suffice. Then, as to public meetings: there are many people who scoff at them. "Got-up agitations," "power of the strongest lungs," and so on. Those who talk in this way seem to forget that, though you may make a "flare-up" with a few shavings and a lucifer-match, to keep up a steady heat you need coals as well. There cannot be such a thing as an agitation that lasts, grows, and for which people sacrifice a great deal, and which is nevertheless merely "got up." A continuous agitation is not a cause but a symptom of discontent. Public meetings, petitions, pamphlets, newspaper articles, are, however imperfectly, organs of public opinion, and much better and more effective organs than assassination or even than epigrams, which take their place in despotically governed countries.

Where there exists such organs of public opinion and a tolerably sound, even though not ideally perfect, representative system, any minority which has really got life and vigor in it can make itself felt. I do not think that, if it were possible, it would be desirable to construct any political machinery for giving a prominent place to the opinions of minorities that will not take the trouble to assert and to spread these opinions. The all-important and essential right of minorities is the right to turn themselves into majorities if they can; this means freedom of the press, freedom of association, freedom of public meeting. "Give me," said Milton, "the liberty to know, to utter, and to argue freely according to conscience, above all other liberties." Minorities that grumble at the whole world round them and have no desire and no hope of convincing other people are not a valuable factor in political or social life. They are, in all probability, the decaying survivals of a past type and not the first germs of a new.

In a genuinely democratic government votes are nominally merely counted; in reality they are weighed. Not indeed in the sense that wisdom always weighs the heaviest; in what constitution, outside Utopia, does that happen? But in the sense that the energy and contagious enthusiasm of a few,

who represent some living and growing idea, far outweigh the indifference and apathy of great numbers. Great movements begin with small minorities; but these minorities must consist of persons who wish to make others share their convictions. From this follows all that can be laid down in general terms about the rights and—what we are less apt to think of—the duties of minorities.

The right of spreading one's opinions implies two things, neither of which must be absent: first, certain legal and constitutional securities; and, secondly, a certain condition of public sentiment. Without the latter the former cannot be obtained unless exceptionally, as, for instance, under an enlightened despotism; and that is really no exception, for securities dependent on the strong will of one enlightened and big-minded man can hardly be called constitutional, and are an uncertain bulwark of liberty. On the other hand, without explicitly recognized legal safeguards public sentiment is a somewhat fickle protector of liberty. Outbursts of fear, fanaticism, and intolerance are only too possible: and a good deal is to be said even for the merely moral force of a formal "declaration of rights." A people in its calm or its generous moments may well protect itself against its own lower moods. And the strong hand of the state is often needed to protect the individual against undue social pressure.

I do not know whether the subject of the ethics of toleration has ever been adequately treated. Toleration is often supposed to arise solely from indifference. This is not the case. In fact, indifference makes toleration superfluous. Toleration, shown by those who "care for none of these things," is no virtue, though it may be a public duty in a magistrate "indifferently administering justice." The toleration of contempt may, indeed, be very useful to those who are jealous and in earnest. The kind of toleration which is most valuable, which can only exist in a morally healthy society, and which will help to keep the society healthy and make it healthier, is toleration shown by those who have faith in the reasonableness of their own beliefs and who are, therefore, willing to face the full light of criticism. Persecution,—and

by persecution I mean here not what any aggrieved individual may call such, but the forcible suppression of *opinions*, (every society is obliged to use force for the suppression of certain overt actions, and the time between expedient and inexpedient compulsion will be drawn differently by different persons),—persecution arises mainly from two sources,—fear and a particular form of belief in the supernatural. If people do seriously believe that they are in possession of truth guaranteed to them by other authority than that of human reason, of course they will not accept the free use of reason as a test; and there is always a risk that, if sufficiently powerful, they will endeavor to repress the spread of what they conscientiously regard as dangerous opinions. Those who believe that Divine truth is something different from human truth will be apt to believe that the civil magistrate must defend the Deity by the power of the sword. This type of belief is really a form of fear,—it is fear of human reason; and only as this belief becomes rarer or weaker by the secularizing, or, I would rather say, the humanizing of politics does toleration become possible. But fear may make even those who appeal to reason persecutors in self-defence. It is difficult, if we are quite just in our historical judgments, to condemn entirely the harsh measures employed by small societies holding unpopular beliefs,—*e.g.*, the Calvinists of Geneva or the founders of the Commonwealth of Massachusetts.\* When a society is struggling to exist at all, cohesion is so essential that it may well require uniformity of belief. A rigid bond of custom is necessary to its earlier stages. Only after cohesion has been obtained is freedom of discussion possible and advantageous. Furthermore, complete freedom of discussion is only possible and is only valuable when there is a general diffusion of education, and when the habit of settling matters by discussion, instead of by force, has become established. In admitting this we

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\* All strong Protestants have appealed to reason by discarding the Church as the interpreter of Scripture. Many of those who boast themselves the representatives of the Reformers have shrunk from the consequences of their Protestantism, when the historical critic says to them, "You have appealed unto Reason; to Reason you shall go."

must not, however, forget that discussion itself is one of the most important means of education. There are indeed people—"misologists," Plato would have called them—who say: "Controversy is of no use. Those who take part in it go away holding the same beliefs as before, only holding them more dogmatically as the result of having had to fight for them." If the fighting is physical, this is always the case; it is not true of intellectual controversy fairly carried on. During the actual discussion, indeed, each may stick to his opinion: it might even be said that unless people showed some obstinacy a debate would always be a failure. For minds in a perfectly flabby condition discussion is impossible: it implies a certain amount of mutual resistance. But if people are really in earnest and care more for truth than for victory, it will be found that after any serious discussion both parties have probably modified their opinions, and out of the conflict of two opposing principles may spring a new one, victorious over both. It is by the conflict of ideas that intellectual progress is made.

Professor Bryce in his great work on "The American Commonwealth" has made clear a very important distinction between "the tyranny of the majority" and "the fatalism of the multitude," which is often confused with it. "A majority is tyrannical," he says (vol. iii. p. 133), "when it decides without hearing the minority, when it suppresses fair and temperate criticism on its own acts, when it insists on restraining men in matters where restraint is not required by the common interest, when it forces men to contribute money to objects which they disapprove and which the common interest does not demand.\* The element of tyranny lies in the wantonness of the act,—a wantonness springing from the sense of overwhelming power,

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\* I assume that the "and" is emphatic and that this clause must be taken as qualifying the previous clause. If a tax is legally imposed by the majority for a purpose which the common interest (in their judgment) demands, a minority may disapprove this purpose, but they have no *moral* right to refuse payment of the tax, unless they are conscientiously convinced that such an act of rebellion is their *duty*, as the best means of bringing about what they regard as a better state of affairs.

or in the fact that it is a misuse for one purpose of power granted for another."

Simply because the minority disapprove of the enactments of the majority they cannot rightly describe the rule of the majority as "tyrannical." In a democratic constitution, with elections recurring sufficiently often, and proper safeguards for liberty of expressing and spreading opinions, the right of the minority is, as I have said, to turn themselves into a majority if they can; and it must be added, it is their duty also, if they continue to believe in themselves. But here comes in that "fatalism," which is so often wrongly described as the tyranny of the majority; the apathy of minorities is one of the frequent weaknesses in democratic communities. As Professor Bryce has put it, "the belief in the rights of the majority lies very near to the belief that the majority must be right" (*ib.*, p. 124). To give way for the time to the legally expressed will of the majority is a necessary and salutary consequence of popular government; but to lose heart and give up effort is an illegitimate and evil consequence of it. It is the duty of a minority to obey, unless conscience absolutely forbids; in which extreme case it may become a duty to resist. If we are using language strictly, there never can be a *right* of resistance. Rights are the creation of society, and there can be no right of the individual or of any number of individuals *against* the society of which they are members. When we speak of "natural rights" we really mean those rights which we think to be the very best that a well-organized society should secure to its members. In the American "Declaration of Independence" the time-honored phrase about the right of resistance is wisely supplemented by the addition of the better and truer word, "duty."

Resistance may, in extreme cases, be the only way of protesting against what we hold to be an unjust and mischievous law and the only way of getting it altered. But the problems of practical ethics involved in this question are not easy. The limits of justifiable compromise cannot be laid down in any hard and fast *a priori* rules. If it really goes against a man's conscience to obey a *law* (I am not speaking of arbitrary,

illegal commands, where the right and duty of disobedience are clear enough), he can, if we use language strictly, claim no right to disobey, but it is his duty to disobey, at whatever cost; if he obeys against his conscience, he loses his own self-respect and lowers his character. Only let him be perfectly sure that it is his conscience that urges him and not some merely selfish motive of personal dislike or offended pride. To justify this statement and this distinction, it would of course be necessary to explain what is meant by "conscience;" but that would carry one too far into difficult questions. Suffice it to say for the present—and I think the supporters of most ethical systems would agree with this statement—that the dictates of a man's conscience will on the whole correspond to the better spirit of the community round him, or at least to what he regards as such; and therefore the man who disobeys a law is acting in the interests of what he conceives to be the future well-being of society. Of course a man's conscience may correspond to a superseded social type, but it will not be a superseded type in his own judgment. Posterity may come to disapprove many actions and yet bestow admiration on the motives of those who did them. Even where an individual has no conscientious objection to render obedience himself, it may occasionally be his duty, in the interests of the future well-being of society, to join others in resisting and even in rebelling, provided that there is no reasonable hope of getting a bad law or a bad constitution altered by peaceable means, and provided also that there is a reasonable hope that the resistance or rebellion will be so successful as to lead to an alteration in the right direction.\* Such is the terrible duty that occasionally falls on the shoulders of a minority, to bear the brand of the criminal now that others in time to come may render a willing obedience to better laws. Society is apt to make mistakes, to number the patriot or the saint among transgressors, to crucify a prophet between two thieves. But the individual is apt to make mistakes also, and there have been martyrs for bad causes.

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\* "On the Ethics of Resistance," see T. H. Green, "*Philosophical Works*," ii. p. 455, ff.

If, however, democracies prove at all true to their ideal, if they live according to the ethics of the age of discussion and not according to those of the earlier ages of force, this duty of resistance should become less and less needed. If majorities, while requiring obedience to laws constitutionally passed after full and free deliberation in what they sincerely believe to be the interest of the whole community, sacredly preserve the liberty of thought and discussion both by express legal securities and by a general sentiment of toleration, it is the duty of a minority, while yielding a loyal obedience to the opinion that has prevailed for the time (except in those rare cases to which I have referred) if not convinced of its excellence, to continue a peaceable agitation till their own opinion prevails. If we are really in earnest about our opinions, it is a duty to endeavor to get others to accept them by means of the appeal to reason; it is also a duty, and often a very hard one, to give them up candidly, if we are genuinely convinced that we have been in the wrong. It is a duty to assert our opinions, wisely of course, and with toleration for others, *even if those others be in the majority*; but it is a prior duty to use all the care we can to make sure that our opinions are right, that what we assert eagerly and persistently is really worth asserting. It is utterly untrue to say that we are not responsible for our opinions. That was a false doctrine invented as a bad argument for a good purpose,—the attack upon religious persecution. Opinions are not trivial matters. What is quietly thought and talked about now will affect what is done very soon. Ethical legislation is constantly going on in our every-day conversation, wherever two or three are gathered together to discuss the conduct of their neighbors. And we cannot escape our responsibility for our share in this ethical legislation, however insignificant we may feel ourselves in presence of the great multitudes of our fellow-mortals. To these great multitudes each of us is responsible; and we owe it to them to oppose them, then and then only, when reason and conscience urge us to do so.

DAVID G. RITCHIE.